

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 4TH DECEMBER 2006 / 13TH AGRAHAYANA 1928

Crl.MC.No. 623 of 2006()

SC.56/2005 of ASSISTANT SESSIONS COURT, TIRUR
.....

PETITIONER: ACCUSED :

RUYESH KOZHISSERY, S/O. GANGADHARAN
KOZHISSERY HOUSE, MANGALAM AMSOM DESOM,
TIRUR.

BY ADV. SRI.K.P.MUJEEB

RESPONDENTS:

STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.
(CRIME NO.295 OF 2003 OF TIRUR POLICE STATION.)

BY PUBLIC PROSECUTOR SRI.K.A.AKBAR

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD
ON 04/12/2006, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R.BASANT, J

Crl.M.C.No.623 of 2006

Dated this the 4th day of December 2006

O R D E R

The petitioners are accused in a prosecution, cognizance in which has taken on the basis of a final report submitted by the police. In the final report, offences punishable under Sections 143,147,148, 185,283,332,333,353 read with 149 I.P.C and Section 3(1) of PDPP Act are alleged to have been committed. It is alleged that the petitioners were members of an unlawful assembly and in prosecution of the common object of the unlawful assembly wanton mischief was committed and loss and destruction were caused to the property of the Government. The learned counsel for the petitioner prays that the powers under Section 482 Cr.P.C may be invoked and the proceedings against the petitioner may be quashed.

2. What is the reason? It is alleged that the allegations are false. Truth or falsity of the allegations cannot obviously be resolved in proceedings under Section 482 Cr.P.C by invoking the extraordinary inherent jurisdiction available to the court.

3. It is next pointed out that specific overt acts have not been alleged against the petitioner herein, that is accused No.9. Precise allegation is that the petitioner was member of an unlawful assembly

of persons and specific allegation of overt acts is not a condition precedent to raise such an allegation.

4. I shall carefully avoid any expression of opinion on merits about the acceptability of the allegations. I have only intended to say that no circumstances justifying the invocation of the extraordinary inherent jurisdiction under Section 482 Cr.P.C are shown to exist.

5. In the result, this Criminal Miscellaneous Case is dismissed but I may hasten to observe that the dismissal of this Criminal Miscellaneous Case will not in any way fetter the rights of the petitioner to raise all appropriate contentions before the court below and to claim discharge/acquittal at the appropriate stage.

(R.BASANT, JUDGE)

jsr

R.BASANT, J

C.R.R.P.No.

ORDER

21ST DAY OF JULY 2006